

## LAW ENFORCEMENT ACADEMY[501]

### Notice of Intended Action

#### **Proposing rule making related to five-year review of rules and providing an opportunity for public comment**

The Law Enforcement Academy hereby proposes to amend Chapter 1, “Organization and Administration,” Chapter 2, “Minimum Standards for Iowa Law Enforcement Officers,” Chapter 3, “Certification of Law Enforcement Officers”; to rescind Chapter 6, “Decertification,” and Chapter 7, “Public Records and Fair Information Practices,” Iowa Administrative Code, and to adopt new Chapters 6 and 7 with the same titles; and to amend Chapter 8, “Mandatory In-Service Requirements,” and Chapter 10, “Reserve Peace Officers.”

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 80B.11 and 80D.4A.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 22.11, 80B.11 and 80D.4A.

#### *Purpose and Summary*

The Iowa Law Enforcement Academy has completed a five-year review of its administrative rules. The rules in Chapter 1 are proposed to be amended to comply with changes made to the rules in Chapter 6. The rules in Chapter 2 are proposed to be amended to provide clarity to law enforcement agencies and the public regarding qualifications necessary to become a certified officer in the State of Iowa. The rules in Chapter 3 are proposed to be updated to reflect the current curriculum of the Law Enforcement Academy. The rules in Chapter 6 are proposed to be updated to reflect the current decertification procedures employed by the Law Enforcement Academy. The rules in Chapter 7 are proposed to be updated to assist the public in making records requests of the Law Enforcement Academy. The rules in Chapter 8 are proposed to be updated to reflect changes made in the requirements for mandatory reporter training. The rules in Chapter 10 are proposed to be amended to make the rules governing reserve peace officers consistent with the rules governing regular peace officers.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Council for a waiver of the discretionary provisions, if any, pursuant to 501—Chapter 16.

#### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Council no later than 4:30 p.m. on February 4, 2020. Comments should be directed to:

Russell Rigdon  
Iowa Law Enforcement Academy  
Building 4640  
P.O. Box 130  
Johnston, Iowa 50131  
Phone: 515.725.9600  
Email: [russell.rigdon@iowa.gov](mailto:russell.rigdon@iowa.gov)

### *Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **501—1.1(80B)**, definitions of “Law enforcement officer” and “Presiding officer,” as follows:

“*Law enforcement officer*” means an officer appointed by the director of the department of natural resources; an officer appointed by the director of the Iowa law enforcement academy and sworn in for the purposes of training; a member of a police force or other agency or department of the state, county, or city regularly employed as such and who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state; and all individuals, as determined by the council, who by the nature of their duties may be required to perform the duties of a peace officer.

“*Presiding officer*” means ~~the person or group presiding over a contested case~~ an administrative law judge employed by the Iowa department of inspections and appeals or the full council or a three-member panel of the council.

ITEM 2. Adopt the following **new** definitions of “Convicted” and “Proposed decision” in rule **501—1.1(80B)**:

“*Convicted*” or “*conviction*” means a finding of guilt, a plea of guilty, a deferred judgment, a deferred or suspended sentence, and an adjudication of delinquency as a juvenile.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the full council did not preside.

ITEM 3. Amend subrule 1.6(4) as follows:

**1.6(4) Quorum and majority vote.** A quorum shall consist of two-thirds of the currently appointed voting members of the council. Action of the council must be approved by a simple majority of the voting members present.

ITEM 4. Rescind subrule 2.1(5) and adopt the following **new** subrule in lieu thereof:

**2.1(5)** Is of good moral character as determined by a thorough background investigation including a fingerprint search conducted on local, state and national fingerprint files and has not been convicted of a felony or a crime involving moral turpitude. “Moral turpitude” is defined as an act of baseness, vileness, or depravity in the private and social duties which a person owes to another person or to society in general, contrary to the accepted and customary rule of right and duty between person and person. Moral turpitude is conduct that is contrary to justice, honesty or good morals.

a. The following nonexclusive list of acts has been found by the Iowa law enforcement academy council to involve moral turpitude:

(1) Any felony. As used in this section, the word “felony” means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year, but does not include any offense, other than an offense involving a firearm or explosive, classified as a misdemeanor under the laws of the state and punishable by a term of imprisonment of two years or less.

(2) A misdemeanor crime of domestic violence as defined by Iowa Code section 724.26(2) “c,” or other offenses of domestic violence.

(3) An adjudication of delinquency as a juvenile based on conduct that would constitute a felony if committed by an adult.

(4) Assault or harassment.

(5) Stalking.

(6) Any offense in which a weapon was used in the commission.

(7) Income tax evasion.

(8) Perjury or its subornation.

(9) Theft, aggravated theft, fraudulent practices, robbery or burglary.

(10) Any sex crime or crime listed in Iowa Code chapter 709.

(11) Conspiracy or solicitation to commit a crime listed in this rule.

(12) Defrauding the government.

(13) Delivering, manufacturing or possessing with the intent to deliver or manufacture a controlled substance.

(14) Convictions by any other state or by the federal government under statutes substantially corresponding to the crimes listed in this rule.

(15) Any crime as an adult that resulted in the requirement of being listed on a sex offender registry.

(16) An adjudication of delinquency as a juvenile based on conduct that would constitute a crime as an adult that resulted in the requirement of being listed on a sex offender registry.

b. In determining whether to grant a waiver of subrule 2.1(5) under rule 501—16.3(17A,80B), the council shall consider in its analysis of numbered paragraph “4” of rule 501—16.3(17A,80B):

(1) The nature and seriousness of the crime;

(2) The time elapsed since the crime was committed;

(3) The degree of rehabilitation which has taken place since the crime was committed;

(4) The likelihood that the person will commit the same crime again;

(5) The number of criminal convictions; and

(6) Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.

ITEM 5. Amend paragraph 2.2(2)“a” as follows:

a. The Minnesota Multiphasic Personality Inventory (~~MMPI~~) 2 (MMPI-2) test shall be taken by all applicants in the final selection process for a law enforcement position.

ITEM 6. Adopt the following new paragraph 2.2(3)“c”:

c. The administration of the Stanard & Associates’ National Police Officer Selection Test (POST) and the Minnesota Multiphasic Personality Inventory 2 (MMPI-2) shall be in accordance with directions of the Iowa law enforcement academy.

ITEM 7. Rescind and reserve subrule 2.2(4).

ITEM 8. Amend subrule 2.2(5) as follows:

**2.2(5) *Personality tests.***

a. Those law enforcement agencies which choose to administer, score, or interpret the ~~MMPI~~ MMPI-2 without using the academy’s testing services shall forward to the academy psychological testing information on any individual hired within 14 days of the date hired. Such information shall include, but not be limited to, all scores from ~~MMPI~~ MMPI-2 scales used in the evaluation, the ~~MMPI~~ MMPI-2 answer sheet, and any resulting reports.

b. The Minnesota Multiphasic Personality Inventory (~~MMPI~~) 2 (~~MMPI~~) 2 (MMPI-2) test may be administered to applicants who are not in the final selection process.

ITEM 9. Amend paragraph **2.2(7)“b”** as follows:

b. Forwarding of Minnesota Multiphasic Personality Inventory (~~MMPI~~) 2 (MMPI-2) test results. The evaluation by the Iowa law enforcement academy of Minnesota Multiphasic Personality Inventory 2 tests will be available to any prospective employing agency upon request and proper waiver by the applicant for a minimal handling fee.

ITEM 10. Amend paragraph **2.2(8)“a”** as follows:

a. The Iowa law enforcement academy evaluations of the Minnesota Multiphasic Personality Inventory 2 may only be used for 12 months to comply with these testing rules. Any applicant who has not been hired or placed upon a civil service certified list within 12 months of taking the Minnesota Multiphasic Personality Inventory 2 test must retake the examination and, before the applicant is hired, the results of the examination must be considered by the hiring authority.

ITEM 11. Amend rule 501—3.3(80B) as follows:

**501—3.3(80B) Standard certifying courses for approved law enforcement facilities.** The standard certifying courses of study at an approved law enforcement training facility are:

1. The long course, consisting of ~~417~~ 620 hours to be completed within a ~~20-week~~ 25-week period; and
2. The short course, consisting of ~~326~~ 400 hours to be completed within a ~~16-week~~ 20-week period.

ITEM 12. Amend subrule 3.4(1) as follows:

**3.4(1)** Have satisfactorily completed a two-year or four-year police science or criminal justice program of which at least 20 credit hours were dedicated to police science or criminal justice coursework at an accredited educational institution and documentation furnished to the academy.

ITEM 13. Rescind rule 501—3.5(80B) and adopt the following **new** rule in lieu thereof:

**501—3.5(80B) Curriculum for long course.**

**3.5(1) Program administration** . . . . . 24 hours

- a. Duty assignments.
- b. Examinations.
- c. Family day.
- d. Graduation.
- e. Registration/orientation.
- f. Student advisor meeting.

**3.5(2) Patrol procedures** . . . . . 55 hours

- a. Active shooter response training.
- b. Alcohol licensee compliance.
- c. Animal control procedures.
- d. Basic incident command (IS-100 and IS-700).
- e. Felony calls in progress (includes building searches).
- f. Fire calls.
- g. Gangs.
- h. Hazardous materials.
- i. Iowa system communication including NCIC (National Crime Information Center).
- j. Meth lab safety.
- k. Observation and perception.
- l. Patrol techniques and beat assignments.
- m. Radar enforcement.
- n. Radio communications.
- o. Terrorism awareness.

- p.* Traffic direction.
- q.* Traffic law enforcement.
- r.* Weather preparedness.
- 3.5(3) Tactical skills . . . . . 188 hours**
  - a.* Chemical spray.
  - b.* Defensive tactics.
  - c.* Expandable baton training.
  - d.* Firearms (including 6 hours of night fire).
  - e.* Firearms training simulator.
  - f.* Risk management.
  - g.* Vehicle operations.
  - h.* Vehicle stops (including 2 hours of night vehicle stops).
- 3.5(4) Life skills . . . . . 123 hours**
  - a.* Below 100.
  - b.* Bloodborne pathogens.
  - c.* Blue courage.
  - d.* Crisis intervention training.
  - e.* Critical incident stress management.
  - f.* Federal color of law (aspects of use of force).
  - g.* Iowa law enforcement emergency care provider (minimum of 32 hours of classroom).
  - h.* Mental health emergencies.
  - i.* Physical training.
  - j.* Special needs population.
  - k.* Stress management.
  - l.* Survival awareness.
- 3.5(5) Investigation. . . . . 112 hours**
  - a.* Bombing and arson.
  - b.* Burglary.
  - c.* Card fraud.
  - d.* Collision investigation.
  - e.* Crime scene search and recording.
  - f.* Death investigation.
  - g.* Document fraud.
  - h.* Domestic abuse investigation (including 4 hours of practical).
  - i.* Financial crimes.
  - j.* Fingerprinting.
  - k.* Forensic science and the DCI laboratory.
  - l.* Hate crimes.
  - m.* Human trafficking.
  - n.* Insurance fraud.
  - o.* Iowa lottery security.
  - p.* Iowa missing persons.
  - q.* Mandatory reporting of child and dependent adult abuse.
  - r.* Narcotics investigation.
  - s.* OWI enforcement (includes chemical testing, evidentiary breath testing device training and drug recognition for street officers).
  - t.* Photography.
  - u.* Sexual abuse investigation.
  - v.* Stalking.
  - w.* Standardized field sobriety testing.
  - x.* Street intoxication.
  - y.* Vehicle theft.

<b>3.5(6) Legal topics</b> . . . . .	67 hours
a. Civil liability.	
b. Confessions and admissions.	
c. Criminal law.	
d. Juvenile law.	
e. Law of arrest.	
f. Motor vehicle law.	
g. Narcotics law.	
h. OWI legal.	
i. Peace officer and management rights.	
j. Procedural due process.	
k. Rules of evidence.	
l. Search and seizure.	
m. Use of force.	
<b>3.5(7) Communication skills</b> . . . . .	36 hours
a. Deaf culture.	
b. Death notification.	
c. Interviews and interrogations.	
d. Moot court.	
e. Report writing and investigative note-taking.	
f. Social media.	
g. Testifying in court.	
h. Verbal defense and influence.	
<b>3.5(8) Foundations of American policing</b> . . . . .	15 hours
a. Community relations.	
b. Court organization.	
c. Cultural competency.	
d. Discretion.	
e. Ethics and professionalism.	
f. Jail operations/corrections/civil process.	
g. Race relations.	
h. Unbiased policing	

TOTAL HOURS: 620

This rule is intended to implement Iowa Code section 80B.11.

ITEM 14. Rescind rule 501—3.6(80B) and adopt the following **new** rule in lieu thereof:

**501—3.6(80B) Curriculum for short course.**

<b>3.6(1) Program administration</b> . . . . .	16 hours
a. Examinations.	
b. Graduation.	
c. Registration/orientation.	
<b>3.6(2) Patrol procedures</b> . . . . .	35 hours
a. Active shooter response training.	
b. Basic incident command.	
c. Felony calls in progress (includes building searches).	
d. Gangs.	
e. Hazardous materials.	
f. Iowa system communication including NCIC.	
g. Meth labs.	
h. Radar enforcement.	
i. Radio communications.	
j. Traffic direction.	

<b>3.6(3) Tactical skills . . . . .</b>	<b>128 hours</b>
a. Chemical spray.	
b. Defensive tactics.	
c. Expandable baton training.	
d. Firearms (including 6 hours of night fire).	
e. Vehicle operations.	
f. Vehicle stops (including 2 hours of night vehicle stops).	
<b>3.6(4) Life skills . . . . .</b>	<b>73 hours</b>
a. Below 100.	
b. Bloodborne pathogens.	
c. Blue courage.	
d. Crisis intervention training.	
e. Iowa law enforcement emergency care provider (minimum of 32 hours of classroom).	
f. Mental health.	
g. Physical training.	
<b>3.6(5) Investigation . . . . .</b>	<b>56 hours</b>
a. Collision investigation.	
b. Crime scene search and recording.	
c. Card fraud.	
d. Death investigation.	
e. Domestic abuse investigation (including 2 hours of practical).	
f. Fingerprinting.	
g. Human trafficking.	
h. Iowa lottery security.	
i. Mandatory reporting.	
j. Narcotics investigation.	
k. OWI enforcement (includes chemical testing, evidentiary breath testing device training and drug recognition for street officers).	
l. Photography.	
m. Sexual abuse investigation.	
<b>3.6(6) Legal topics . . . . .</b>	<b>57 hours</b>
a. Confessions and admissions.	
b. Criminal law.	
c. Juvenile law.	
d. Law of arrest.	
e. Motor vehicle law.	
f. Narcotics law.	
g. OWI legal.	
h. Rules of evidence.	
i. Search and seizure.	
j. Use of force.	
<b>3.6(7) Communication skills . . . . .</b>	<b>29 hours</b>
a. Interviews and interrogations.	
b. Report writing and investigative note-taking.	
c. Testifying in court.	
d. Verbal defense and influence.	
<b>3.6(8) Foundations of American policing . . . . .</b>	<b>6 hours</b>
a. Cultural competency.	
b. Ethics and professionalism.	
c. Unbiased policing.	

TOTAL HOURS: 400

This rule is intended to implement Iowa Code section 80B.11.

ITEM 15. Rescind 501—Chapter 6 and adopt the following new chapter in lieu thereof:

CHAPTER 6  
DECERTIFICATION

**501—6.1(80B) Scope of rules.** The rules contained in this chapter pertaining to practices and procedures are designed to implement the requirements of Iowa Code chapters 80B and 17A. These rules shall govern the practice, procedures, and conduct of contested case proceedings held in the revocation of a law enforcement officer's certification.

**501—6.2(80B,80D) Grounds for revocation.**

**6.2(1) *Mandatory revocation.*** The council shall revoke a law enforcement officer's certification or a reserve peace officer's certification if:

- a. The law enforcement officer or reserve peace officer pleads guilty to or is convicted of a felony;
- b. The law enforcement officer or reserve peace officer manufactures, sells, or conspires to manufacture or sell an illegal drug other than an authorized act in connection with official duties;
- c. The law enforcement officer or reserve peace officer pleads guilty to or is convicted of a crime constituting a misdemeanor crime of domestic violence or other domestic abuse including other offenses or lesser included offenses stemming from domestic abuse;
- d. The law enforcement officer or reserve peace officer pleads guilty to or is convicted of any offense classified as a tier I, tier II, or tier III sex offense in Iowa Code chapter 692A.

**6.2(2) *Discretionary revocation.*** The director or the director's designee shall have the authority to conduct a preliminary inquiry and shall have the authority to determine which matters shall be referred to the council for consideration. The council, at its discretion, may revoke or suspend a law enforcement officer's or a reserve peace officer's certification under any of the following circumstances:

- a. The law enforcement officer or reserve peace officer has been discharged for "good cause" from employment as a law enforcement officer or from appointment as a reserve peace officer.
- b. The law enforcement officer or reserve peace officer leaves, voluntarily quits, or the officer's position is eliminated when disciplinary action was imminent or pending which could have resulted in the law enforcement officer being discharged or the reserve peace officer being removed for "good cause."
- c. The law enforcement officer or reserve peace officer:
  - (1) Makes, tenders, or certifies to a material false statement in a document prescribed by the academy or otherwise provided for or authorized by these rules, or in any other document intended to induce the academy or the council to take or withhold action.
  - (2) Falsifies or makes misrepresentations on an employment application submitted to any Iowa law enforcement agency or any other public document required to be completed by the officer.
  - (3) Testifies falsely in any court of law or administrative hearing.
  - (4) Commits any act of moral turpitude as defined in 501—subrule 2.1(5). A copy of the record of conviction of or plea of guilty to a crime of moral turpitude shall be conclusive evidence; however, a conviction or plea of guilty is not required.
  - (5) Uses or possesses an illegal substance other than in connection with official duties.
  - (6) Fails to comply with the requirements of 501—Chapters 8 and 10 relative to in-service training.
  - (7) Is decertified in any other state where the law enforcement officer or reserve peace officer may be certified.

d. The law enforcement officer has failed to reimburse the employing agency for costs incurred by that agency, including fees paid to the academy, clothing vendor costs, meal costs, uniform/equipment costs, and the officer's salary paid during the academy if the officer leaves that agency and is employed by another law enforcement agency within a period of four years following completion of the certification training, under the following conditions:

- (1) A written agreement or contract of employment must be entered into by the officer and the employing agency contemporaneously with the date of employment. The agreement shall specifically provide for the reimbursement to the employing agency by the officer of the costs of training incurred by the employing agency, including fees paid to the Iowa law enforcement academy, clothing vendor costs,

meal costs, uniform/equipment costs, and the officer's salary paid during the academy. The agreement must:

1. Specify the amount of reimbursement that the officer agrees to pay;
2. Set forth the time period within which this reimbursement will be made, which shall be on a declining scale similar to the provisions of Iowa Code section 384.15(7);
3. Contain a statement that if reimbursement is not made in accordance with the agreement, the officer understands that the employing agency may at its option seek the officer's decertification as an Iowa law enforcement officer; and
4. Contain a provision to the effect that the agreement or contract of employment is for bona fide employment of the officer and not for the purpose of achieving certification for the officer by way of "sponsorship" through the academy.

(2) A recommendation for decertification must be verified under oath by the administrator of the employing agency with which the officer contracted under this rule. The recommendation for decertification must contain the following information:

1. Have attached a copy of the agreement referred to in subparagraph 6.2(2)"d"(1) above;
2. Include an order of judgment from a small claims or civil court;
3. State that the officer has not made reimbursement to the employing agency as provided in the agreement, and clearly describe the nature of the default;
4. List an accounting of all payments made by the officer to the employing agency under the agreement, and specify the balance due;
5. State that written notice of the default or judgment has been given to the officer, that the officer has been provided opportunity to correct the default, and that there remains no reasonable alternative to decertification;
6. Specifically recommend that the council commence proceedings to decertify the officer, and state that the employing agency will do all things necessary to cooperate in this effort; and
7. Set out the last-known address of the officer, the officer's telephone number, and the officer's last-known place of employment.

(3) The recommendation for decertification must be submitted to the academy not more than one year after the date of the officer's default, unless the council, upon written application and for good cause shown, grants further time in which to submit the recommendation.

#### **501—6.3(80B,17A) Service and filing of pleadings and other papers.**

**6.3(1) *Computation of time and filing of documents.*** The computation of time and filing of documents shall be in compliance with Iowa Code section 4.1(34).

**6.3(2) *Service—when required.*** Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, simultaneously with its filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

**6.3(3) *Service—how made.*** Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

**6.3(4) *Filing—when required.*** After the notice of hearing, all documents in a contested case proceeding shall be filed with the council at Iowa Law Enforcement Academy, Camp Dodge, Johnston, Iowa 50131. All documents that are required to be served upon a party shall be filed simultaneously with the council and, if the presiding officer is not the council, at a location designated by the presiding officer.

**6.3(5) *Filing—when made.*** Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the council, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

**6.3(6) Proof of mailing.** Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (document description) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

**501—6.4(80B,17A) Prehearing procedures.**

**6.4(1) Council subpoenas.** Prior to the commencement of a contested case, the council may exercise the authority to subpoena books, papers, and records and shall have all other subpoena powers conferred upon it by law.

**6.4(2) Commencement of contested case proceedings.** Contested case proceedings shall be commenced by the delivery of a notice by the council or its designee requiring the affected law enforcement officer to appear and show cause why certification to be a law enforcement officer in the state of Iowa should not be revoked or suspended. Notice may be given in the same manner as the service of original notice as provided in the Iowa Rules of Civil Procedure; by certified restricted mail, return receipt requested; by signed acknowledgment accepting service; or, when service cannot be accomplished using the aforementioned methods, notice of hearing shall be published once each week for three consecutive weeks in a newspaper of general circulation, published or circulated in the county of last-known residence of the affected law enforcement officer. The first notice of hearing shall be published at least 30 days prior to the scheduled hearing.

The notice shall include:

- a. A statement of the time, place and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the grounds for revocation or suspension and relevant facts;
- e. Reference to the procedural rules governing conduct of the contested case proceeding; and
- f. Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer.

Notice may also be sent in the manner aforementioned or by ordinary mail to any other interested party. After the delivery of the notice commencing the contested case proceedings, the presiding officer may allow further response of pleadings by the party as, in the presiding officer's discretion, is deemed necessary and appropriate.

**6.4(3) Discovery.** The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; and requests for admission. Unless lengthened or shortened by the presiding officer, the time frames for discovery in the specific Iowa Rules of Civil Procedure govern those specific procedures.

a. Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions shall apply to any depositions taken in a contested case proceeding. Any party taking a deposition in a contested case shall be responsible for any deposition costs, unless otherwise specified or allocated in an order. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

b. Iowa Rule of Civil Procedure 1.509 shall apply to any interrogatories propounded in a contested case proceeding.

c. Iowa Rule of Civil Procedure 1.512 shall apply to any requests for production of documents, electronically stored information, and things in a contested case proceeding.

d. Iowa Rule of Civil Procedure 1.510 shall apply to any requests for admission in a contested case proceeding. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission shall apply in contested case proceedings.

e. The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to contested case proceedings. However, upon application by a party, the presiding officer may order the parties to comply with these procedures unless doing so would unreasonably complicate the proceedings or impose an undue hardship.

f. Iowa Rule of Civil Procedure 1.508 shall apply to discovery of any experts identified by a party to a contested case proceeding.

g. A party may file a motion to compel or other motion related to discovery in accordance with this subrule. Any motion filed with the presiding officer relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is lengthened or shortened by the presiding officer. The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

h. Evidence obtained in such discovery may be used in contested case proceedings if the evidence would otherwise be admissible in the contested case proceedings.

**6.4(4) *Presiding officer subpoenas.*** The presiding officer may issue subpoenas to a party on request, as permitted by law, compelling the attendance of witnesses and the production of books, papers, records or other real evidence.

**6.4(5) *Motions.*** No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

a. Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the agency or the presiding officer.

b. The presiding officer may schedule oral arguments on any motion.

c. Motions pertaining to the hearing, including motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

**6.4(6) *Prehearing conference.*** The presiding officer, upon its own motion or upon the written request of one of the parties, may, in the presiding officer's discretion and upon written notice, direct the parties to appear at a specified time and place before the presiding officer for a prehearing conference to consider:

a. The possibility or desirability of waiving any provision of these rules relating to contested case proceedings by written stipulation representing an informed mutual consent.

b. A necessity or desirability of setting a new date for hearing.

c. The simplification of issues.

d. The necessity or desirability of amending the pleadings for purposes of clarification, amplification or limitation.

e. The possibility of agreeing to the admission of facts, documents or records not substantially controverted, to avoid unnecessary introduction of proof.

f. The procedure at the hearing.

g. Limiting the number of witnesses.

h. The names and identification of witnesses and the facts each party will attempt to prove at the hearing.

i. Other matters as may aid in, expedite or simplify the disposition of the proceeding.

Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange witness and exhibit lists in advance of a prehearing conference.

#### **501—6.5(80B,17A) Presiding officer.**

**6.5(1)** The presiding officer assigned to render a proposed decision will be an administrative law judge employed by the Iowa department of inspections and appeals. However, the council in its discretion may elect to preside over a case in lieu of an administrative law judge.

**6.5(2)** Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the Iowa department of inspections and appeals

must file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the council.

**6.5(3)** The council may deny the request only upon a finding that one or more of the following apply:

- a.* Neither the council nor any officer of the council under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.
- b.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- c.* An administrative law judge is unavailable to hear the case within a reasonable time.
- d.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- e.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- f.* Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- g.* The request was not timely filed.
- h.* The request is not consistent with a specified statute.

**6.5(4)** The council shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge, the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

**6.5(5)** Unless otherwise provided by law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the council. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

**6.5(6)** Unless otherwise provided by law, the council, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

#### **501—6.6(80B,17A) Disqualification.**

**6.6(1)** A presiding officer or council member shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a.* Has a personal bias or prejudice concerning a party or a representative of a party;
- b.* Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c.* Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d.* Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e.* Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f.* Has a spouse or relative within the third degree of relationship that:
  - (1) Is a party to the case, or an officer, director or trustee of a party;
  - (2) Is a lawyer in the case;
  - (3) Is known to have an interest that could be substantially affected by the outcome of the case; or
  - (4) Is likely to be a material witness in the case; or
- g.* Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

**6.6(2)** The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than

investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 and subrules 6.6(3) and 6.11(9).

**6.6(3)** In a situation where a presiding officer or council member knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

**6.6(4)** If a party asserts disqualification on any appropriate ground, including those listed in subrule 6.6(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If the presiding officer determines that disqualification is appropriate, the presiding officer or council member shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 501—6.12(80B,17A) and seek a stay under rule 501—6.16(80B,17A).

**501—6.7(80B,17A) Continuances.** A party has no automatic right to a continuance or delay of the council's hearing procedure or schedule. However, a party may request a continuance of the presiding officer prior to the date set for hearing. The presiding officer shall have the power to grant continuances. Within seven days of the date set for hearing, no continuances shall be granted except for extraordinary, extenuating or emergency circumstances.

**501—6.8(80B,17A) Hearing procedures.**

**6.8(1)** Contested case proceeding. Unless the parties to a contested case proceeding have by written stipulation representing an informed mutual consent waived the provisions of the Act relating to the proceedings, contested case proceedings shall be initiated and culminate in an evidentiary hearing open to the public. Parties shall have been notified of the date and place of the hearing at least 30 days prior thereto.

*a.* Evidentiary hearings before the council shall be held at the council's principal office, Iowa Law Enforcement Academy, Camp Dodge, Johnston, Iowa, except that a case may be assigned for hearing elsewhere when deemed necessary to afford a party an opportunity to appear at the hearing with as little inconvenience and expense as practicable.

*b.* Evidentiary hearings before an administrative law judge shall be held at an appropriate location designated by the department of inspections and appeals.

**6.8(2) Conduct of the proceedings.**

*a.* The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings. If the presiding officer is the council or a panel thereof, an administrative law judge from the Iowa department of inspections and appeals may be designated to assist the council in conducting proceedings under this chapter. An administrative law judge so designated may rule upon motions and other procedural matters and assist the council in conducting the hearings.

*b.* Evidentiary proceedings shall be oral and open to the public and shall be recorded either by mechanical means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand reporters shall bear the appropriate costs. The record of the oral proceedings or the transcription thereof shall be filed with and maintained by the council for at least five years from the date of the decision.

**6.8(3)** All objections shall be timely made and stated on the record.

**6.8(4) Legal representation.**

*a.* The law enforcement officer has a right to participate in all hearings or prehearing conferences and may be represented by an attorney or another person authorized by law. If the law enforcement officer is not represented by anyone qualified by these rules to make an appearance, the presiding officer shall explain to the law enforcement officer the rules of practice and procedure and generally conduct a hearing in a less formal manner than that used when a law enforcement officer has a representative

qualified to appear. It should be the purpose of the presiding officer to assist any law enforcement officer who appears without a representative to the extent necessary to allow a fair presentation of evidence, testimony and arguments on the issues.

*b.* The office of the attorney general or an attorney designated by the director shall be responsible for prosecuting contested case proceedings under this chapter. The assistant attorney general or other designated attorney assigned to prosecute the contested case shall not represent the council in that case but shall represent the public interest.

**6.8(5)** Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in argument.

**6.8(6)** Witnesses may be sequestered during the hearing.

**6.8(7)** The presiding officer shall conduct the hearing in the following manner:

*a.* The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

*b.* The parties shall be given an opportunity to present opening statements;

*c.* Parties shall present their cases in the sequence determined by the presiding officer;

*d.* Each witness shall be sworn or affirmed by the presiding officer or the court reporter and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

*e.* When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

#### **501—6.9(80B,17A) Evidence.**

**6.9(1)** The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

**6.9(2)** Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

**6.9(3)** Evidence in the proceeding shall be confined to the issues concerning allegations raised on the face of petition for decertification as to which the parties received notice prior to the hearing.

**6.9(4)** The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

**6.9(5)** Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

**6.9(6)** Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

#### **501—6.10(80B,17A) Default.**

**6.10(1)** If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

**6.10(2)** Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

**6.10(3)** Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 501—6.14(80B,17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

**6.10(4)** The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

**6.10(5)** Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

**6.10(6)** "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

**6.10(7)** A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 501—6.12(80B,17A).

**6.10(8)** If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

**6.10(9)** A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues (but, unless the defaulting party has appeared, it cannot exceed the relief demanded).

**6.10(10)** A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 501—6.16(80B,17A).

#### **501—6.11(80B,17A) Ex parte communication.**

**6.11(1)** Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the council or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating, prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

**6.11(2)** Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

**6.11(3)** Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

**6.11(4)** To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 501—6.3(80B,17A) and may be supplemented by telephone, facsimile,

electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

**6.11(5)** Council members acting as presiding officers may communicate with each other without notice or opportunity for parties to participate.

**6.11(6)** The director or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 6.11(1).

**6.11(7)** Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 501—6.7(80B,17A).

**6.11(8)** Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order (or disclosed). If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

**6.11(9)** Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

**6.11(10)** The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the department. Violation of ex parte communication prohibitions by department personnel shall be reported to (agency to designate person to whom violations should be reported) for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

**501—6.12(80B,17A) Interlocutory appeals.** Upon written request of a party or on its own motion, the council may review an interlocutory order of the presiding officer. In determining whether to do so, the council shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the council at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

**501—6.13(80B,17A) Final decision.**

**6.13(1)** When the council presides over the reception of evidence at the hearing, its decision is a final decision.

**6.13(2)** When the council does not preside over the reception of evidence at the hearing, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the council without further proceedings unless there is an appeal to, or review on motion of, the council within the time provided in rule 501—6.14(80B,17A).

**6.13(3)** Final decisions shall be served on the affected law enforcement officer using one of the following methods: the same manner as the service of original notice as provided in the Iowa Rules of Civil Procedure; by certified restricted mail, return receipt requested; by signed acknowledgment accepting service; or, when service cannot be accomplished using the aforementioned methods, notice of hearing shall be published once each week for three consecutive weeks in a newspaper of general circulation, published or circulated in the county of last-known residence of the affected law enforcement officer. If the officer is represented by an attorney, the final decision shall be mailed to the attorney. The attorney may waive the requirement to serve the affected law enforcement officer through a written acknowledgment that the attorney is accepting service on behalf of the client.

**501—6.14(80B,17A) Appeals and review.**

**6.14(1) *Appeal by party.*** Any adversely affected party may appeal a proposed decision to the council within 30 days after issuance of the proposed decision.

**6.14(2) *Review.*** The council may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

**6.14(3) *Notice of appeal.*** An appeal of a proposed decision is initiated by filing a timely notice of appeal with the council. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought; and
- e. The grounds for relief.

**6.14(4) *Requests to present additional evidence.*** A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The council may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

**6.14(5) *Scheduling.*** The council shall issue a schedule for consideration of the appeal.

**6.14(6) *Briefs and arguments.*** Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The council may resolve the appeal on the briefs or provide an opportunity for oral argument. The council may shorten or extend the briefing period as appropriate.

**501—6.15(80B,17A) Application for rehearing.**

**6.15(1) *By whom filed.*** Any party to a contested case proceeding may file an application for rehearing from a final order.

**6.15(2) *Content of application.*** The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the council decision on the existing record and whether, on the basis of the grounds enumerated in subrule 6.14(4), the applicant requests an opportunity to submit additional evidence.

**6.15(3) *Time of filing.*** The application shall be filed with the council within 20 days after issuance of the final decision.

**6.15(4) *Notice to other parties.*** A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the council shall serve copies on all parties.

**6.15(5) *Disposition.*** Any application for a rehearing shall be deemed denied unless the council grants the application within 20 days after its filing.

**501—6.16(80B,17A) Stays of council actions.**

**6.16(1) *When available.***

*a.* Any party to a contested case proceeding may petition the council for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the council. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The director may rule on the stay or authorize the presiding officer to do so.

*b.* Any party to a contested case proceeding may petition the council for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

**6.16(2) *When granted.*** In determining whether to grant a stay, the director or presiding officer shall consider the factors listed in Iowa Code section 17A.19(5).

**6.16(3) *Vacation.*** A stay may be vacated by the issuing authority upon application of the council or any other party.

**501—6.17(80B,17A) No factual dispute contested cases.** If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

**501—6.18(80B,17A) Reinstatement.** Any person whose certification has been suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of suspension and this rule. Any person whose certification has been revoked is not eligible for reinstatement.

**6.18(1)** All proceedings for reinstatement shall be initiated by the law enforcement officer or reserve peace officer, who shall file with the academy council an application for reinstatement. Such application shall be docketed in the original case in which the certification was suspended. All proceedings upon the application for reinstatement shall be subject to the same rules of procedure as other cases before the academy council.

**6.18(2)** An application for reinstatement shall allege facts which, if established, will be sufficient to enable the academy council to determine that the basis for the suspension of the law enforcement officer's or reserve peace officer's certification no longer exists and that it will be in the public interest for the certification to be reinstated. The burden of proof to establish such facts shall be on the law enforcement officer or reserve peace officer seeking reinstatement.

**6.18(3)** An order denying or granting reinstatement shall be based upon a decision which incorporates findings of fact and conclusions of law.

These rules are intended to implement Iowa Code chapters 17A and 80B.

ITEM 16. Rescind 501—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

**501—7.1(17A,22) Definitions.** As used in this chapter:

“*Agency*” means the Iowa law enforcement academy.

“*Confidential record*” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available

for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

*“Custodian”* means the Iowa law enforcement academy, or a person lawfully delegated authority by the Iowa law enforcement academy to act for the agency in implementing Iowa Code chapter 22.

*“Open record”* means a record other than a confidential record.

*“Personally identifiable information”* means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

*“Record”* means the whole or a part of a public record as defined in Iowa Code section 22.1.

*“Record system”* means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

**501—7.2(17A,22) Statement of policy.** This chapter implements Iowa Code section 22.11 by establishing agency policies and procedures for the maintenance of records. The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

**501—7.3(17A,22) Requests for access to records.**

**7.3(1) Location of record.** A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Iowa Law Enforcement Academy, P.O. Box 130, Camp Dodge, Johnston, Iowa 50131.

**7.3(2) Office hours.** Open records shall be available during customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

**7.3(3) Request for access.** A request for access to open records may be made in writing, by electronic mail, in person or by telephone. The request shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

**7.3(4) Response to requests.** Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 501—7.6(17A,22) and other applicable provisions of law.

**7.3(5) Security of record.** No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

**7.3(6) Copying.** A reasonable number of copies of an open record may be made in the agency’s office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

**7.3(7) Fees.**

*a. When charged.* The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

*b. Copying and postage costs.* Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

*c. Search and supervisory fees.* Fees may be charged for actual agency expenses in searching for and supervising the examination and copying of requested records. The custodian shall notify the requester of the hourly fees to be charged for searching for records and supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform these search and supervisory functions.

*d. Advance deposits.*

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require payment of the full amount of any fees previously owed and of any estimated fees for the new request prior to processing any new request from the requester.

**501—7.4(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination.** The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

**7.4(1) Persons who may request.** Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

**7.4(2) Request.** A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

**7.4(3) Failure to request.** Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code section 22.7(3) or 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

**7.4(4) Timing of decision.** A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not

available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

**7.4(5) *Request granted or deferred.*** If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

**7.4(6) *Request denied and opportunity to seek injunction.*** If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record need not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

**501—7.5(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.** Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. The requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian or to the Iowa law enforcement academy. The request to review such a record or the written statement of such a record of additions, dissents or objections must be dated and signed by the requester, and shall include the current address and telephone number of the requester or the requester's representative.

**501—7.6(17A,22) Access to confidential records.** Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 501—7.3(17A,22).

**7.6(1) *Proof of identity.*** A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

**7.6(2) *Requests.*** The custodian may require that a request to examine and copy a confidential record be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

**7.6(3) *Notice to subject of record and opportunity to obtain injunction.*** After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential

record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

**7.6(4) Request denied.** When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a. The name and title or position of the custodian responsible for the denial; and
- b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

**7.6(5) Request granted.** When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

**501—7.7(17A,22) Notice to suppliers of information.** The agency shall notify persons completing agency forms of the use that will be made of personal information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means. Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law, or similar demands for information.

**501—7.8(17A,22) Disclosures without the consent of the subject.**

**7.8(1)** Open records are routinely disclosed without the consent of the subject.

**7.8(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a. For a routine use as defined in rule 501—7.9(17A,22) or in any notice for a particular record system.
- b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.
- c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.
- e. To the legislative services agency under Iowa Code section 2A.3.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

**501—7.9(17A,22) Routine use.**

**7.9(1)** Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

**7.9(2)** To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

**501—7.10(17A,22) Consensual disclosure of confidential records.** To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

**501—7.11(17A,22) Release to subject.**

**7.11(1)** The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 501—7.5(17A,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)

d. Examination may be withheld as defined in Iowa Code section 22.7(19).

e. Decertification requests or information concerning decertification procedures under Iowa Code section 80B.13(8) and 501—Chapter 6.

f. As otherwise authorized by law.

**7.11(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

**501—7.12(17A,22) Availability of records.**

**7.12(1) General.** Agency records are open for public inspection and copying unless otherwise provided by rule or law.

**7.12(2) Confidential records.** The following records may be withheld from public inspection. Records are listed by category according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

b. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)

- c. Records which are exempt from disclosure under Iowa Code section 22.7.
- d. Minutes or audio recordings of closed meetings of a government body. (Iowa Code section 21.5(5))
- e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“e.”
- f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements; or in the selection or handling of cases such as operational tactics or allowable tolerances, or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:
  - (1) Enable law violators to avoid detection;
  - (2) Facilitate disregard of requirements imposed by law; or
  - (3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2(11)“f” and 17A.3(1)“d.”)
- g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, state and federal rules of evidence or procedure, the Code of Professional Responsibility, and case law.
- h. Examinations and results. (Iowa Code section 22.7(19))
- i. Agency instructional outlines when disclosure would be prohibited by Iowa Code section 17A.2(11)“f.”
- j. Criminal investigative reports. (Iowa Code section 22.7(5))
- k. Computer resource security files containing names, identifiers, and passwords of users of computer resources. Such files must be kept confidential to maintain security for access to confidential records pursuant to Iowa Code section 22.7. (Iowa Code section 22.7(50))
- l. Data or information collected for the purpose of assessing, analyzing, measuring, preparing for, or responding to suspected, potential, or actual information security threats. (Iowa Code section 22.7(50))
- m. Detailed security audit information. Such information includes but is not limited to security assessment reports; information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of the office. (Iowa Code section 22.7(50))
- n. Information security data, information security proposals, or information security assessments compiled, prepared, or developed by a governmental body, or compiled, prepared, or developed by a nongovernment body and used by a government body pursuant to a contractual relationship with the nongovernment body. (Iowa Code section 22.7(50))
- o. Data processing software, as defined in Iowa Code section 22.3A, which is developed by a government body, or developed by a nongovernment body and used by a government body pursuant to a contractual relationship with the nongovernment body. (Iowa Code section 22.3A(2)“a”)
- p. Log-on identification passwords, Internet protocol addresses, private keys, or other records containing information which might lead to the disclosure of private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D.
- q. Records which if disclosed might jeopardize the security of an electronic transaction pursuant to Iowa Code chapter 554D.

**501—7.13(17A,22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in a records system as defined in rule 501—7.1(17A,22). Unless otherwise stated,

the authority for the Iowa law enforcement academy to maintain the record is provided by Iowa Code chapter 80B, the statutes governing the subject matter of the record.

For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information, and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

**7.13(1) *Law enforcement officer personal files.*** The Iowa law enforcement academy is charged by Iowa Code chapter 80B to establish training and hiring standards and to certify individuals as law enforcement officers in the state of Iowa. Training records, law enforcement officer status, and personal questionnaires are necessary to accomplish the mandate of Iowa Code chapter 80B.

These personal files contain information about past and present law enforcement officers in the state. These files may contain hiring and termination information, personal questionnaires and status changes (required by rule 501—3.1(80B) and rule 501—3.2(80B)), medical information showing compliance with rule 501—2.1(80B) and rule 501—2.2(80B) as authorized by Iowa Code section 80B.11, criminal history data, restoration of citizenship records, pardon records, training records, test scores, disciplinary reports and evaluation reports prepared during recruit training, decertification requests, and investigative reports. These files may also contain published articles concerning an individual officer and other data relevant to a law enforcement officer's career in law enforcement. Some of these records may be confidential under Iowa Code section 22.7 or Iowa Code chapter 692. Law enforcement officer personal records are stored in both paper and computerized form.

**7.13(2) *Decertification files.*** These files are maintained pursuant to Iowa Code section 80B.13(8). These files contain requests or inquiries made by hiring authorities concerning decertification of a person who is certified as a law enforcement officer in the state of Iowa. The Iowa law enforcement academy also has independent authority pursuant to Iowa Code section 80B.13(8) to revoke a law enforcement officer's certification for conviction of a felony or revoke or suspend a law enforcement officer's certification for a violation of rules adopted pursuant to Iowa Code section 80B.11(1) "h." These files may contain official administrative or court filings or records, investigative reports, criminal history data, and attorney-client work product concerning possible or impending litigation. Some of this information may be confidential under Iowa Code sections 17A.2 and 22.7, Iowa Code chapter 692, constitutional restraints, statute and the Code of Professional Responsibility. Except as previously noted, administrative hearing filings or records and court records or filings are public records. This information is stored in paper and computerized forms.

**7.13(3) *Litigation files.*** These files or records contain information regarding litigation, or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wanting to obtain copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy. Copies of pleadings and other documents filed in litigation with the Iowa law enforcement academy may be obtained from the Iowa law enforcement academy during normal business hours as these documents are public records. These records are maintained in paper and computerized forms.

**7.13(4) *Personnel files.*** The agency maintains files containing information about present and former employees, families and dependents, and applicants for positions with the agency. These files include payroll records, attendance records, psychological testing results, biographical information, background investigative reports and fingerprint checks, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the

employer-employee relationship. Some of this information is confidential under Iowa Code sections 22.7(7) and 22.7(11) and Iowa Code chapter 692.

**7.13(5) *Library user files.*** These files contain information on individuals who have checked out books, films, tapes, etc. from the Iowa law enforcement academy library. This information is confidential pursuant to Iowa Code section 22.7(13). This information is kept in paper form and may appear in computerized form.

**7.13(6) *Law enforcement class files.*** These files contain information concerning individuals who have attended training classes established by the Iowa law enforcement academy. These files may contain grade information, class rosters, class schedules, class tests, photographs of class members, and disciplinary information. Some of this information may be confidential pursuant to Iowa Code section 22.7. This information is kept in computerized and paper form.

**7.13(7) *Implied consent training files.*** These files contain information concerning those officers who are certified to invoke implied consent pursuant to Iowa Code chapter 321J. These files are public records and are accessible during normal working hours. Some of this information may be confidential pursuant to Iowa Code section 22.7. This information is kept in computerized and paper form.

**7.13(8) *Specialized instructor files.*** These files contain information concerning individuals who have attended specialized training programs or through experience are qualified to instruct in specialized areas of law enforcement. These records may be retrieved by personal identifier or through class name. Some of this information may be confidential pursuant to Iowa Code section 22.7. These records are kept in both computerized and paper form.

**7.13(9) *Psychological testing.*** These files contain information concerning a law enforcement applicant's test scores regarding cognitive and personality tests mandated by Iowa Code section 80B.11(1) "g." In these files other psychological examinations requested by hiring agencies are also stored by a personal identifier. Some of this information may be confidential pursuant to Iowa Code section 22.7(19). Law enforcement officers interested in the results of their psychological testing should contact the hiring agency that authorized the testing. This information is maintained in both computerized and paper form.

**7.13(10) *Contract file.*** This file contains information concerning contracts between the Iowa law enforcement academy and outside agencies or individuals. Some of this information may be confidential pursuant to Iowa Code section 22.7(6). These records are kept in paper form or computerized form.

**7.13(11) *Salary files.*** These files contain information concerning financial data regarding payments made to permanent or temporary employees of the Iowa law enforcement academy. These records are maintained concurrently by the Iowa law enforcement academy, the Iowa department of administrative services, and the Iowa department of revenue. These records are kept in paper and computerized form.

**501—7.14(17A,22) Other groups of records.** This rule describes groups of records maintained by the agency other than a record system as defined in rule 501—7.1(17A,22). These records are routinely available to the public; however, the agency's files of these records may contain confidential information as discussed in rule 501—7.12(17A,22). The records listed may contain information about individuals. All records are stored on paper and in computer systems unless otherwise noted.

**7.14(1) *Council records.*** Agendas, minutes, and materials presented to the Iowa law enforcement academy council are available at the Iowa law enforcement academy, except those records concerning executive sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Council records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.5.

**7.14(2) *Administrative records.*** This includes documents concerning budget, property inventory, reservation and use of facility space, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions, and income sources such as psychological testing fees, petty cash, tuition, film rentals, and room rentals.

**7.14(3) *Publications.*** The office receives a number of books, periodicals, videotapes, films, newsletters, government documents, etc. These records are maintained in the library established pursuant to Iowa Code section 80B.15 for use by law enforcement training centers and institutions who

have a two-year program in law enforcement. Some of these records may be protected by copyright law. Many of these publications of general interest are available in the state law library.

**7.14(4) Rule-making records.** Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection.

**7.14(5) Office manuals.** Information in office manuals such as the instructor outlines or policy manuals may be confidential under Iowa Code section 17A.2(11)“f” or other applicable provision of law.

**7.14(6) Office publications.** The agency maintains statistical reports and other written documentation to educate the public about the Iowa law enforcement academy to be used in program planning and budget projections.

**7.14(7) Legislative files.** These files keep a record of bills being considered by the Iowa legislature each legislative session. These records are public records and can best be obtained by contacting the Iowa house or senate bill room at the state capitol.

**7.14(8) Research files.** These files are kept as working files to research and scrutinize different concerns particular to law enforcement and the academy’s training and rule-making obligations. Some of this information is confidential as attorney-client work product, as under Iowa Code section 17A.2 or 22.7, or other applicable provisions of law.

**7.14(9) All other records.** Records are open if not exempted from disclosure by law.

**501—7.15(17A,22) Data processing systems.** None of the data processing systems used by the agency compare personally identifiable information in one record system with personally identifiable information in another record system.

These rules are intended to implement Iowa Code chapters 17A and 22.

ITEM 17. Adopt the following **new** subrule 8.1(5):

**8.1(5) Mandatory reporter training.**

a. Pursuant to Iowa Code sections 232.69(1)“b”(11) and 232.69(3)“b,” a peace officer shall complete at least two hours of additional child abuse identification and reporting training every three years. If the peace officer completes at least one hour of additional child abuse identification and reporting training prior to the three-year expiration period, the peace officer shall be deemed in compliance with the training requirements of this rule for an additional three years.

b. Pursuant to Iowa Code sections 235B.3(2)“b” and 235B.16(5)“b,” a peace officer shall complete at least two hours of additional dependent adult abuse identification and reporting training every three years. If the peace officer completes at least one hour of additional dependent adult abuse identification and reporting training prior to the three-year expiration period, the peace officer shall be deemed in compliance with the training requirements of this rule for an additional three years.

c. The elected or appointed official designated as the head of the agency employing the regular law enforcement officer shall ensure compliance with the training requirements of this subrule. The core training curriculum relating to the identification and reporting of child abuse or dependent adult abuse shall be developed and provided by the department of human services.

d. A child abuse or dependent adult abuse training certificate relating to the identification and reporting of child abuse or dependent adult abuse issued prior to July 1, 2019, remains effective and continues in effect as issued for the five-year period following its issuance.

ITEM 18. Amend paragraph **10.1(3)“b”** as follows:

b. Verification must be received by the council that a fingerprint check has been made with the Federal Bureau of Investigation and the division of criminal investigation of the Iowa department of public safety and that the applicant ~~has no record of a felony conviction or conviction of a crime involving moral turpitude.~~ has not been convicted or adjudicated of any offense listed in 501—paragraph 2.1(5)“a.” Fingerprint check responses from these agencies must be dated not more than one year prior to the date of the receipt by the academy of the application to the council for certification.

ITEM 19. Amend rule 501—10.4(80D) as follows:

**501—10.4(80D) Standards for certification.** An applicant for certification to carry weapons as a reserve peace officer must be of good moral character and not have been convicted of a felony or a crime involving moral turpitude. (See subrule 2.1(5).) ~~The offenses of domestic abuse and stalking or other offenses of domestic violence, and any offense in which a weapon was used in the commission, are crimes involving moral turpitude.~~ or adjudicated of any offense listed in 501—paragraph 2.1(5) “a.”

ITEM 20. Amend subrule 10.100(5) as follows:

**10.100(5)** Is of good moral character as determined by a thorough background investigation including a fingerprint search conducted on local, state and national fingerprint files, and has not been convicted of a felony or a crime involving moral turpitude. “Moral turpitude” is defined as an act of baseness, vileness, or depravity in the private and social duties which a person owes to another person, or to society in general, contrary to the accepted and customary rule of right and duty between person and person. Moral turpitude is conduct that is contrary to justice, honesty or good morals. The following nonexclusive list of acts has been held by the courts to involve moral turpitude: income tax evasion, perjury, insubordination, theft, indecent exposure, sex crimes, conspiracy to commit a crime, defrauding the government, and illegal drug offenses. The offenses of assault, domestic abuse, or other offenses of domestic violence, stalking, and any offense in which a weapon was used in the commission are crimes involving moral turpitude. Various factors, however, may cause an offense which is generally not regarded as constituting moral turpitude to be regarded as such. or adjudicated of any offense listed in 501—paragraph 2.1(5) “a.”

ITEM 21. Amend subrule 10.100(8) as follows:

**10.100(8)** ~~Has vision corrected to 20/20. Vision tests conducted within 12 months before appointment or selection may be used. A person who performs policing duties alone and without the direct supervision of a certified regular law enforcement officer who is physically present with the reserve peace officer at all times must have uncorrected vision of not less than 20/100 in both eyes, corrected to 20/20. Policing duties include but are not limited to responding to calls, making traffic stops, and patrolling the jurisdiction.~~ Has an uncorrected vision of not less than 20/100 in both eyes, corrected to 20/20.

The applicant shall have color vision consistent with the occupational demands of law enforcement. An applicant’s passing any of the following color vision tests indicates that the applicant has color vision abilities consistent with the occupational demands of law enforcement:

*a.* and *b.* No change.

An individual with extreme anomalous trichromatism or monochromasy color vision, as determined through testing, is not eligible to serve as a reserve peace officer in the state of Iowa.